

LABOUR DEPARTMENT

The 3rd June, 1987

No. 9/1/87-6Lab./3582.—In pursuance of the Provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the Management of M/s The Ambala Primary, Co-operative Development Bank Ltd., Ambala :—

Workman alleged that he joined as a class IV employee (Peon-cum-Chowkidar) in the Ambala Primary Co-operative Development Bank Ltd., Ambala,—vide letter No. 83, dated 3rd August, 1982 in the pay scale of 400—660 and joined service on 4th August, 1982. He had been discharging his duty to the satisfaction of the respondent-management but on 3rd May, 1983 his services were illegally terminated in violation of provisions of section 25 (F) of the Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full backwages.

IN THE COURT OF SHRI V. P. CHAUDHARY,
PRESIDING OFFICER, LABOUR COURT,
AMBALA.

Ref. No. 125 of 1984.

(Old No. 14 of 1984)

SHRI SIKANDER LAL, S/O SHRI CHANDER
BHAN, VILLAGE PASIALA, P.O. NAGLA,
TEHSIL AND DISTRICT AMBALA AND THE
MANAGEMENT OF THE MESSRS THE
AMBALA PRIMARY CO-OPERATIVE DEVELOPMENT
BANK LTD., AMBALA

Respondent-management contested the dispute and contended that workman was employed initially for three months and thereafter his service period used to be extended only for 89 days after giving break of one day and ultimately as per the terms and conditions of his service workman Sikander Lal was relieved from his job on 3rd May, 1983. It was also contended that there was no necessity of compliance of provisions of section 25 (F) because the service of the workman was for fixed period and accordingly it was dispensed with on the expiry of the period of employment.

Present:—

Shri A. S. Bagri for workman.

Shri Didar Singh for respondent.

Workman filed replication through which he controverted the contentions of the respondent-management by saying that the extension in the service was given time and again but he had acquired the status of a regular workman after completing service of 240 days in the respondent-management in those circumstances automatic termination of the workman is bad in law and violative to provisions of section 25 (F) of Industrial Disputes Act.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (c) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Sikandar Lal and Messrs The Ambala Primary Co-operative Development Bank Ltd., Ambala Originally to Labour Court, Faridabad. The terms of the reference are as under:

“Whether termination of services of Shri Sikander Lal is just and correct, if not, to what relief is he entitled?”

Labour Court at Ambala was created in April, 1984. So this reference was received by transfer.

On the pleadings of the parties the following issues were framed :

Issues :

1. Whether termination order, dated 3rd May, 1983 regarding services of the workman is legal as per reference, if not, its effect ? OPR.
2. Whether claim is bad for non-joinder and mis-joinder of necessary parties? OPR
3. Whether Labour Court has got no jurisdiction to try this dispute? OPR

4. Whether an advocate cannot conduct case on behalf of respondent, if so, its effect? OPA

5. Relief.

I have heard Authorised Representatives of the parties and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :

Issue No. 1

In support of this issue management examined Shri Didar Singh, Manager, Land Development Bank, Ambala as MW-1 he deposed that workman Sikander Lal was given job at his own application he joined service of respondent on 4th August, 1982 for three months again joined service on 5th November, 1982 for 89 days. Similarly on 3rd February, 1983 he again joined duty for 89 days and after 3rd May, 1983 his service period was not extended. In cross-examination he deposed that before dispensing with services of workman neither notice nor pay, in lieu of, notice period and no retrenchment compensation was paid to workman Sikander Lal. After termination of services of Shri Sikander Lal one Chhater Pal Singh has been appointed as Peon-cum-Chowkidar. Workman was not informed about this vacancy nor his willingness was taken whether he wants to join service of respondent-management or not.

In view of the above evidence of the respondent it is established that Sikander Lal workman joined job of respondent-management on 4th August, 1982 as a Peon-cum-Chowkidar and services were dispensed with on 3rd May, 1983 without notice, without payment of wages, in lieu of, notice period and no retrenchment compensation was paid to him. After termination of his services one Chhatter Pal Singh has been appointed as Peon-cum-Chowkidar without calling for the option of the workman this clearly shows that Sikander Lal had completed service of 240 days in the employment of respondent-management. While terminating his service it was incumbent in respondent-management that it should have issued notice or it should have paid pay, in lieu of, notice period and retrenchment compensation must have been paid to him while dispensing with his service but these provisions were not followed. Moreover when a vacancy occurred the first offer should have been

given to Sikander Lal to join as Peon-cum-Chowkidar if he would have declined that offer in those circumstances the respondent-management should have employed Chhatter Pal Singh otherwise not. In these circumstances I hold that declining of job after 3rd May, 1983 to Sikander Lal by the respondent-management in violation of provisions of section 25 (F) of Industrial Disputes Act, 1947 order of the bank in this respect is illegal and bad in law cannot be sustained. Accordingly, I order the reinstatement of workman with continuity in service and with full back wages and decided this issue, in favour of workman against the respondent-management.

Issue No. 2

This issue was not pressed nor any arguments were advanced the workman was employed by the Manager, Ambala Primary Co-operative Land Development Bank Ltd., Ambala so he is the proper party to whom workman has challenged and there was no necessity for the workman to implead any other as a party to this litigation as a respondent, so this issue is accordingly decided, in favour of, workman against the management.

Issue No. 3

The Labour Court has got jurisdiction to try dispute between employees and management of the Co-operative Banks and Societies, so this issue is also decided, in favour of, workman against the management.

Issue No. 4

This issue I have already decided,—vide order, dated 24th April, 1985 against the management, in favour of, the workman.

Issue No. 5 :

For the foregoing reasons on the basis of my issue-wise findings I order the reinstatement of workman with continuity in service and with full back wages and pass award regarding the dispute in hand between the parties accordingly.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Dated, the 2nd April, 1987.

Endorsement No. 806, dated 10th April, 1987
Forwarded (Four Copies) to the Financial Commissioner and Secretary to Government

Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

No. 9/1/87-6Lab./3588.—In pursuance of the Provision of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the Workman and the Management of M/s. K. K. & Company, 212, H.M.T. Ancillary Unit, Panchkulla (Ambala):—

IN THE COURT OF SHRI V. P. CHAUDHARY,
PRESINDING OFFICER, LABOUR COURT,
AMBALA

Ref. No. 42 of 1985.

Misc. Ref. No. 2 of 1987.

SHRI RAM SARUP C/O SHRI YADHU NATH PRASAD VILLAGE RELY P.O. PANCHKULLA (AMBALA) AND THE MANAGEMENT OF THE MESSRS K. K. & COMPANY, 212, HMT, ANCILIARY UNIT, PANCHKULA (AMBALA).

Present:—

Shri Abhey Singh for the workman.

Shri R. L. Chopra for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (C) of sub-section (i) of section (10) of the Industrial Disputes Act, 1947 referred dispute between Shri Ram Sarup and Messrs K. K. & Company, 212, HMT, Ancillary Unit, Panchkulla to this Court. The terms of the reference are as under:

"Whether termination of services of Shri Ram Sarup is just and correct, if not, to what relief is he entitled?"

Workman alleged that he had been employed as a Watchman in the respondent-management continuously for five years. His services were

terminated on 11th July, 1984 without issuing and charge-sheet, show-cause notice etc. which is violative to section 25(F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that it is false and frivolous claim by the workman against the management. In fact management never terminated the services of the workman. The workman left the job of his own. The reason behind his leaving the job was that he was involved in some police case and as a result of theft he started absconding since 2nd April, 1984. When the management saw that workman has been absenting himself it wrote a letter to workman on 5th June, 1984 and then again on 18th June, 1984 calling him to report on duty but the workman failed to report for duty thus management thought that the workman has abandoned his employment and was no longer interested in the job. It was also contended that during the conciliation proceedings before the Labour Officer workman never appeared. Management had given offer to the workman to report on duty even before the Conciliation Officer. It was further contended that since the workman abandoned his job of his own, so he is not entitled to reinstatement as prayed for.

On the pleadings of the parties the following issues were framed:

Issues

1. Whether termination order, dated 11th July, 1984 is justified, if not, its effect? OPM
2. Whether claim statement is at variance with the demand notice, if so, its effect?
3. Relief.

I have heard Authorised Representatives of the parties and have perused the oral and documentary evidence placed on the file. My issue wise findings are as under:

Issue No. 1:

In support of this issue management examined Shri Vipin Kaushal who deposed that workman was in the employment of respondent-

management as a Chowkidar. He started absconding from his duty on 2nd June, 1984. A letter was written to him on 5th June, 1984 asking the workman to report on duty but no reply was received from the side of the workman. Another letter, dated 18th June, 1984 was written to him but no reply was received from the side of the workman nor the workman reported on duty. Copies of letters are Exhibit M-2 and M-3. Even during the conciliation proceedings before the Conciliation Officer workman never appeared. Police case had been registered against him due to that fact he had been absconding from his duty. He further stated that management never took signature of the workman on blank papers.

Workman Ram Sarup appeared as AW-1 he deposed that on 11th July, 1984 he was removed from service without issuing any notice and without making payment of any retrenchment compensation. He filed a complaint to Labour Inspector, but in spite of that he was not taken on job. Copies of complaints are Mark-A and Mark-B. He controverted the suggestion that a theft case was registered by the police against him, he also denied that the police was in his search and to avoid arrest by the police, he had been absconding. He stated that no letter was received by him from the management regarding reporting on duty.

AW-2 Shri Ramji Lal deposed that many dates were fixed by the Conciliation Officer. Shri Abhey Singh had been appearing on behalf of the workman while workman never attended the court of the Conciliation Officer.

In view of the above evidence case of the parties is very clear management has taken a plea that a theft case was registered against Ram Sarup by the police in other words Ram Sarup was wanted in a theft by the police. Ram Sarup workman to avoid arrest by the police had been absconding. Management posted two letters to Ram Sarup calling him to report on duty but he never responded.

On the other hand plea of the workman is that no theft case was ever registered against him, he never absconded. He never received letter from the management regarding calling him to report on duty.

In view of these facts and evidence on the file the evidence led by the management attaches more importance because AW-2 witness of the workman has deposed that workman himself by saying that workman never joined re-conciliation proceedings. Had he would have not been

wanted in a theft case by the police in those circumstances he must have joined conciliation proceedings as well as he must have responded letters of the management and must have reported on duty. This shows that workman voluntarily absconding and abandoned his job. Exhibit M-4 report of the Conciliation Officer reads that workman never appeared before him and never took part in reconciliation proceedings in fact his Authorised Representative Shri Abhey Singh had been appearing.

So from the evidence of management, even from the evidence of workman witnesses AW-2 coupled with report of Conciliation Officer it is established that workman wilfully absconded in spite of two letters from the side of management, he did not report for duty, so it is a case of abandonment of job and not of a termination, so this issue is decided, in favour of management, against the workman.

Issue No. 2

This issue was not pressed nor any arguments were advanced by the Authorised Representative of the workman so it is decided against the management.

Issue No. 3:

For the foregoing reasons on the basis of my findings on issue No. 1 it is proved to the hilt that in fact workman absconded from his job wilfully of his own and being absentee he was not terminated, so he is not entitled to relief claimed for. However the respondent-management is directed to pay all the remaining dues and retrenchment compensation to him if he is entitled to any bonus that should also be paid to him within 15 days of the publication of this award. I pass award regarding the dispute in hand between the parties accordingly.

Dated, the 10th April, 1987.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 814, dated 10th April, 1987.

Forward (Four Copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.